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RUFUS CHOATE.

There is ground for the suspicion that Virginia, with her wealth of great men, has at times become indifferent to those born outside her borders. Although it is regrettable, there is nothing surprising about this, because in a sense it is natural. With the longest history of any of the American Commonwealths—with that history brilliant with the words and deeds of those who made it, and with it a large part of the history of the nation—it is far from remarkable that the eyes of Virginians should be fixed upon her own stars, and that, when now and then they wander to other spheres, the gaze is briefer as the distance is greater, and soon returns to the contemplation of the home firmament.

We can, however, very profitably turn for a time from a study of the judges, lawyers, statesmen, soldiers and divines of Virginia whose names are household words throughout the land, common property of the Republic, to those of other commonwealths. None has been more fruitful of men of notable and varied ability than Massachusetts, and of these it is not, in the judgment of the writer, exaggeration to say that there has not arisen a greater than the subject of this article. While it has been and doubtless truly said that the name of a great lawyer is written in water, it would seem to be by that much more the duty of the bar to keep alive as long as may be the deeds and words and memories of its great.

Rufus Choate—lawyer, orator, statesman, scholar—was born October 1, 1799, in the old town of Ipswich, now Essex, Massachusetts. We have not space here even for the proper study of the man; his early boyhood must be passed over.

Near the close of his sixteenth year he entered the freshman class at Dartmouth College. "There he brought," says one of his eulogists, "a mind burning with a thirst for knowledge. which

death alone had power to quench, kindled with aspirations lofty, but as yet undefined and vague, and stocked with an amount of general information quite remarkable for his years; a physical constitution somewhat yielding and pliant, of great nervous sensibility, but equalled by few for endurance and elastic strength. He came pure from every taint of vice, generous, enthusiastic, established in good principles, good habits and good health."

He at once took high rank in his classes and in the affection of his fellow-students, which he retained to the end. One of them writes as follows:

"I entered the class in the spring of the Freshman year, when its members had already joined the societies and found their affinities. * * * I was acquainted with some members of the class before I entered college, and remember making natural inquiries in the winter vacation about the associates I should find in it. Several were named as having taken high rank during the fall term, but Choate was not mentioned. I was the more struck, therefore, at the first recitation, as I watched each successive voice with the keen curiosity of a new-comer, when Choate got up, and in those clear musical tones put Livy's Latin into such exquisitely fit and sweet English as I had not dreamed of, and in comparison with which all the other construing of that morning seemed the roughest of unlicked babble. After the first sentence or two, I had no doubt who was the first classical scholar among us, or who had the best command of English. I was on one side of the room and he the other, and I remember as if but yesterday his fresh, personal beauty, and all the graceful charm of modest, deferential look and tone that accompanied the honeyed words. * * * The impression that his first words made upon me was peculiar; and nothing, literally nothing, while in college or since, ever came from him to disturb the affectionate admiration with which in the old recitation-room, in the presence of Tutor Bond, I first heard his voice, his words, his sentences,—all, even then, so exquisite in their expression of genius and scholarly accomplishments. I have always felt my connection with that class as a peculiar felicity of my college life; and to us all Choate's companionship through the four years was a blessing and an honor."

During his college course, the great case of Dartmouth College *v.* Woodward was argued and decided. Young Choate

early became absorbed in its progress—in fact, as librarian of one of the college debating societies whose property was invaded, he was a party to one of its earlier phases, having been summoned before a petty magistrate upon a charge of riot. Mr. Webster's great speech for the College was made in March, 1818, and the laurels which he won, says a biographer, "directed the young student's attention to the advantages, the attractions and the grandeur of that profession in which he was destined to attain such eminence." "The victory of Miltiades would not suffer him to sleep."

Mr. Choate graduated from Dartmouth in 1819. Chief Justice Perley in his eulogy of him gives this remarkable testimony:

"I entered college at the commencement of his senior year, and can myself bear witness to the supremacy which he then held here in the unanimous judgment of his fellow-students. No other man was ever mentioned in comparison with him. His public college exercises were of a very uncommon character. Unless I was greatly misled by a boyish judgment at the time, or am strangely deceived by looking at them through the recollections of forty years, no college exercises of an undergraduate that I have ever heard are at all worthy to be compared with them, for beauty of style, for extent and variety of illustration, for breadth and scope, and for manly comprehension of the subject. At this distance of time, I well remember every public exercise performed by him while I was a member. I have heard him often since, and on some of the occasions when he is understood to have made the most successful displays of his eloquence; I heard him when he stood upon this spot to pronounce his eulogy on Webster, which has been considered, on authority from which on such a question there lies no appeal, to be unequalled among the performances of its class in this country, and I can sincerely say that nothing I have ever heard from him in the maturity and full growth of his powers, has produced upon me a deeper impression, or filled me at the time with a more absorbing and rapt sensation of delight, than those college exercises."

After a year spent in tutoring at his alma mater, he entered the law school at Cambridge, but looking for a wider field, he entered in 1821 the office of William Wirt, then Attorney-General of the United States, and in the ripeness of his powers and fame. "The year which he spent at Washington," says a

biographer, "was not without considerable advantage. It enlarged his knowledge of public men of affairs. He became familiar with the public administration. He spent some hours almost daily in the Library of Congress. He began to comprehend still more fully the dignity of his chosen profession. He saw Marshall upon the bench and heard Pinckney in the Senate and in his last speech in court, and thenceforth became more than ever an admirer of the genius of those eminent men. Pinckney he thought the most consummate master of a manly and exuberant spoken English that he had ever heard, and always kept him in view as a sort of model advocate."

He returned to Massachusetts and was admitted to the bar in September, 1823. He settled at Danvers: It is narrated of him that his immediate success was not striking, and during the first two or three years, in some seasons of his despondency, he seriously debated whether he should not throw up his profession and seek other means of support. In 1825, however, he had the courage to marry, but it would be more accurate to say that a Miss Helen Olcott, of Hanover, N. H., had the courage to marry him. It was, however, a most congenial alliance and so continued throughout their joint lives.

Soon his fame commenced to spread. "His unique and vigorous eloquence, his assiduity, care and fidelity to his clients, adorned with a modesty as singular as it was beautiful, gained him many friends and admirers." In 1828 he moved to Salem, the county seat of Essex County, whose bar had long been distinguished for learning. The names of Dane and Parsons, Story, Putnam, Pickering and Cushing were a few of the notable ones which adorned its roll. Mr. Choate brought to Salem a reputation already established and soon rose to high position through the force of eminent talents and professional fidelity.

In 1830 he was elected to Congress, having previously served while in South Danvers two terms in the legislature and one year in the State Senate. He took his seat in December, 1831, and was, says a friend, "an equal among equals." It was a period of great political excitement. General Jackson was drawing near the close of the first term of his Presidency, sustained by warm friends, yet opposed by some of the ablest statesmen in the country.

"Mr Choate made but two speeches during the session, one on Revolutionary Pensions, the other on the Tariff, but these gave him a position at once among the most able and persuasive speakers of the House. One of these speeches was made under unusual circumstances. The subject of the Tariff had been hanging for some time in the Committee, when one afternoon Mr. Choate obtained the floor. There were but few members present when he rose, but as he continued to speak, one after another came from the lobbies to the door, stood a moment to listen, were caught and drawn to their seats by the irresistible charm of his mellifluous utterance, till gradually the hall became full, and all, for convenience of hearing, gathered in a circle about the speaker. He had a nervous dread of thunder, and was never quite at ease in a severe storm. Before he had half finished his speech a dark thunder cloud rolled up and suddenly burst over the Capitol. Mr. Choate was standing directly under the central sky-light; his face pale with a blackish paleness, and his whole frame tremulous with unusual excitement. The hearers caught his emotion and listened intently as he went on. At the same time the increasing darkness, the rushing wind and rain, the lurid light through the distant windows, the red and searching gleams of the lightning, the rattling peals of thunder, the circle of upturned faces, lighted from above, gazing earnestly on the speaker,—all made it a scene not easily to be forgotten. He spoke in the modest, deferential manner natural to him, with the same delicious, uninterrupted flow of choice words, and with hardly a gesture except the lifting and settling of the upper part of the body, and he sat down amidst the enthusiasm of those who heard him, members of all parties rushing to offer their congratulations. His position as a parliamentary orator was established."

Mr. Choate was re-elected to Congress, but having determined to remove to Boston, resigned his seat at the close of the session of 1834. He brought to Boston a great reputation for legal and forensic ability, but at first, surrounded as he was with lawyers of established practice and great ability, he had to take a place which we may say was at the middle of the ladder and work thence upward. He may be said to have reached the top at the end of seven years, for his growth was steady in knowledge and influence. This position of *princeps*, though perhaps not *facile*, he retained to the day of his death.

In 1841, Mr. Webster having accepted the office of Secretary of State under President Harrison, Mr. Choate was elected in

his place to the Senate of the United States. He did not seek the position and indeed accepted it reluctantly, "his distaste for the annoyances of public life, his loathing for political schemers, his plans for study, and professional achievement, the necessity for an income," all combining to influence him against it. We can again pause here only long enough to say that his career in the Senate was as brilliant as was that in the House, but with a wider field of influence and power. An offer of the Dane law professorship at Harvard was soon followed by the tender of a seat on the Supreme Judicial Court of Massachusetts, both of which were declined.

In 1846, he made his celebrated defense of Albert J. Tirrell, indicted for murder in the first degree. An aroused public opinion demanded a conviction upon evidence that seemed to fit the theory of the prosecution like a glove. "The chain of circumstantial evidence coiling around the prisoner seemed irrefragable," yet it is said by one of Mr. Choate's biographers that "by throwing doubt upon the testimony for the government, as derived in part from witnesses of infamous character, by subtly analyzing what was indisputable, and demonstrating its consistency with a theory of innocence, by showing the possibility of suicide or murder by some other hand,"—above all by the tremendous force of his own personality and power of persuasion, Tirrell went free.

His next cases of note were the Smith and Phillips will cases, of his argument in the latter of which it was said that "to those who never heard him before, it was a new revelation of the scope and power of legal eloquence." Soon after leaving the Senate, with the pressure of numerous and great cases upon him, he began a course of classical studies merely by way of recreation and self-improvement. He wrote to a friend, "I am reading, meditating and translating the first of Greek historians, Thucydides. I study the Greek critically, then the history in other authors, and translate faithfully, yet with some attention to words and constructions; and my purpose is to study deeply the Greece of the age of Pericles, and all its warnings to the liberty and anti-unionisms of my own country and time."

In 1850 the country was convulsed with political excitement.

On March 7th, Mr. Webster made his great speech on "The Constitution and the Union." Intemperate harangues and an inflammatory press aroused the feeling to such a point that prudent men felt bound to protest against and if possible allay it. A number of Union meetings were held in different States. At that held in Faneuil Hall, Boston, November 26, 1850, Mr. Choate delivered the principal address, showing as well his great oratorical ability as "his generous and broad patriotism; his farsightedness and wisdom in pointing out the dangers of the Republic and earnestness in exhortation to avoid them."

A few months after this, he delivered his famous address on Washington. The following extract presents a specimen of style involving at once his long sentences, his splendid vocabulary and his delightful sarcasm.

"In turning now," he said, "to some of the uses to which this great example may contribute, I should place among the first, this, to which I have this moment made allusion; that is, that we may learn of it how real, how lofty, how needful and how beautiful a virtue is patriotism.

"It is among the strangest of all the strange things we see and hear, that there is, so early in our history, a class of moralists among us, by whom that duty, once held so sacred, which takes so permanent a place in the practical teachings of the Bible, which Christianity—as the Christian world has all but universally understood its own religion—not tolerates alone, but enjoins by all its sanctions; and over which it sheds its selectest influences, while it ennobles and limits it; which literature, art, history, the concurrent precepts of the wisest and purest of the race in all eras, have done so much to enforce and adorn and regulate,—I mean, the duty of loving, with a specific and peculiar love, our own country; of preferring it to all others, into which the will of God has divided man; of guarding the integrity of its actual territory; of advancing its power, eminence, and consideration; of moulding it into a vast and indestructible whole, obeying a common will, vivified by a common life, identified by a single soul; strangest it is, I say, of all that is strange, we have moralists, sophists, rather, of the dark or purple robe, by whom this master-duty of social man, is virtually and practically questioned, yea, disparaged. They deal with it as if it were an old-fashioned and half-barbarous and vulgar contracted animalism, rather than a virtue. This love of country of yours, they say, what is it, at last, but an immoral and un-

philosophical limitation and counteraction of the godlike principle of universal Benevolence? These symbols and festal days; these processions and martial airs, and discourses of the departed great; this endeared name of America, this charmed flag, this memorial column, these old graves, these organic forms, this boasted Constitution, this united national existence, this ample and glorious history of national progress, these dreams of national fortune,—alas! what are they but shams, baubles, playthings for the childhood of the race; nursery ballads, like the Old Testament; devices of vanity, devices of crime, smelling villainously of saltpetre; empty plausibilities; temporary and artificial expedients, say hindrances, rather, by which the great and good, of all hemispheres and all races, are kept from running into one another's embraces; and man, the abstract, ideal, and subjective conception of humanity, after having been progressively developed, all the way up, from the brain of a fish, in this nineteenth century, sacrificed and smothered by his accidents! Do not stoop so low as to be a Patriot. Aspire to be a Philanthropist! To reform your country, not to preserve your country, is the highest style of man, nowadays. Root and branch work of it, is the word. If she goes to pieces in the operation, why, her time had come, and there is an end of an old song. It will be only the ancient myth of the fall of man and expulsion from Paradise,—nothing but a stage of progress,—just a bursting into a new life, rather different from the old, and more of it,—that is all!!”

Lectures upon literary subjects, orations upon social and economic questions, debates with strong opponents upon political topics followed one another in rapid succession—while all the time the demands of his now absorbing law practice were alone sufficient to exhaust the strength of the more than average man. His own health was finally undermined, but he continued at work, until in 1859, in arguing the will case of *Gage v. Tudor*, he found himself unequal to the task and withdrew from it, never returning to his office again.

In May, 1859, he went to the residence of his son-in-law, Mr. Bell, where he spent four weeks of quiet and rest—of looking out upon the sea—of communing with nature. “Life is not long enough,” he said, with his mind manifestly upon his crowding duties. His malady, which later proved to have been Bright's disease, continuing to increase, he determined, upon the advice of friends, upon a trip to Europe. It is interesting and char-

acteristic to note the books which he took with him. They were the Bible; Daily Food; Luther on the Psalms; Hengstenberg's Psalms; Lewis's Six Days of Creation; Owen on Mark; The Iliad; The Georgics; Bacon's Advancement of Learning; Shakespeare; Milton; Coleridge; Thomson; Macaulay's History; Anastasius; and The Crescent and the Cross.

But he was not to have the privilege of opening one of them, for death was already hovering near. The *Europa*, on which he sailed, touched first at Halifax, N. S., before starting across the main, and by the time that port was reached, he had become so ill that the ship's surgeon advised that he go ashore. He accepted the advice, saying that he was "so weary." Finding comfortable quarters with a room looking out upon the sea, he remained nearly the same for some days. From his pillow he could see the ships moving in the harbor. "If a schooner or a sloop goes by," he once said, when dropping into a doze, "don't disturb me, but if there is a square-rigged vessel, wake me up." On the 12th day of July, he commenced to grow worse rapidly, until on the next day exhaustion terminated in a peaceful death.

Even in that strange land, so great was his fame, a meeting of the bench and bar of Halifax was immediately held in testimony of respect. The telegraph flashed the news of his death over the United States, and all men seemed to pause a moment to do him reverence. Public meetings, addressed by the foremost men of his time, were held in his honor. His remains, upon their arrival in Boston, were conveyed with every testimonial of respect—the booming of minute guns, the tolling of bells, the waving of flags at half-mast—to their last resting place at Mount Auburn.

A few words from different writers, descriptive of his personality, habits of thought and action, and methods of conduct of his cases, must conclude this study:

"Mr. Choate was a little more than six feet in height; his frame robust, strong, and erect; his walk rapid, yet easy and graceful, and with a force, too, that seemed to bear onward not only himself but all about him; his head was covered with a profusion of black, curling hair, to the last with but a slight sprinkle of gray; his eyes were dark, large, and, when quiet, with an introverted, meditative look, or an expression dreamy

and rapt, as of one who saw afar off what you could not see; his smile was fascinating, and his whole manner marked with peculiar and inimitable grace. 'He gave you a chair,' said Rev. Dr. Adams in his Funeral Address, 'as no one else would do it. He persuaded you at his table to receive something from him, in a way that nothing so gross as language can describe. He treated every man as though he were a gentleman; and he treated every-gentleman almost as he would a lady.' His whole appearance was distinguished; and though he always, with instinctive modesty, avoided notice, he never failed to attract it even among strangers.

"Mr. Choate's handwriting was famous for obscurity. It was impossible for one not familiar with it to decipher its intricacies, and in his rapid notes, with abbreviations and unfinished words, for any one but himself to determine the meaning; and even he, when the subject was forgotten, sometimes was at a loss. And yet, when closely examined, it will be seen not to be a careless or stiff or angular scrawl; each letter is governed by a law and seems striving to conform to the normal type; and, it has been observed by one much accustomed to criticise penmanship, the lines have certain flowing, easy, and graceful curves, which give to them a kind of artistic beauty.

"In his preparation for the argument of a question of law, he could never be said to have finished it until the judgment had been entered by the court. It commenced with the knowledge that the argument was to be made; and from that time to the entry of the judgment, the case never seemed to be out of his mind; and whenever and wherever a thought appropriate to the case occurred to him, it was noted for use. It would often happen that the case was nearly reached for argument at one term of the court; every possible preparation having been made and the brief printed; yet the term would end and the case not come on. At the next term a fuller brief appeared; and this might happen several times. The finished brief of the evening had to be altered and added to in the morning; and it frequently went into the hands of the court with the undried ink of his last citations. If, after argument, a case uncited then was discovered, or if a new view of it occurred to him, the court was instantly informed of it."

Edward Everett, in speaking of Mr. Choate's oration before the Boston Democratic Club on July 4, 1858, upon American Nationality, said:

"When our friend concluded his superb oration this morning, I was ready, like Mr. Cruger (who stood with Burke for the

representation of Bristol), 'to say ditto to Mr. Burke.' I was unwilling to believe that the noble strain, by turns persuasive, melting, and sublime, had ended. The music of the voice still dwelt upon my heart; the lofty train of thought elevated and braced my understanding; the generous sentiments filled my bosom with delight, as the peal of a magnificent organ, touched by the master's hand, thrills the nerves with rapture and causes even the vaulted roof to vibrate in unison. The charmed silence seemed for a while to prolong the charming strain, and it was some moments before I was willing to admit that the stops were closed and the keys hushed."

Hon. Benjamin R. Curtis spoke of him as follows:

"A trial in a court of justice has been fitly termed a drama in which the actors, the events, and the passions were all realities; and of the parts which the members of the legal profession play therein, it was once said, by one who, I think, should have known better, that they are brawlers for hire. I believe the charge can have no general application—certainly not to those who, within my experience, have practiced at this bar, where good manners have been as common as good learning. At all events, he of whom I speak was a signal example that all lawyers are not brawlers.

"For, among other things most worthy to be remembered of him, he showed, in the most convincing manner, that forensic strife is consistent with uniform personal kindness and gentleness of demeanor; that mere smartness, or aggressive and irritating captiousness, have nothing to do with the most effective conduct of a cause; that the business of an advocate is with the law and the evidence, and not in provoking or humbling an opponent; that wrangling, and the irritations which spring from it, obstruct the course of justice; and are indeed twice cursed, for they injure him who gives and him who receives.

"I am sure I shall have the concurrence of the court when I say, that among all Mr. Choate's extraordinary gifts of nature and graces of art, there was nothing more remarkable than the sweetness of his temper and the courtesy of his manners, both to the bench and the bar. However eager might be the strife, however exhausting the toil, however anxious the care,—these were never lost. The recollection of them is now in all our hearts."

Again we quote from Mr. Everett:

"It is, perhaps, by his discourses on academical and popular occasions that he is most extensively known in the community, as it is these which were listened to with delighted admiration by

the largest audiences. He loved to treat a purely literary theme; and he knew how to throw a magic freshness—like the cool morning dew on a cluster of purple grapes—over the most familiar topics at a patriotic celebration. Some of these occasional performances will ever be held among the brightest gems of our literature. The eulogy on Daniel Webster at Dartmouth College, in which he mingled at once all the light of his genius and all the warmth of his heart, has, within my knowledge, never been equalled among the performances of its class in this country for sympathetic appreciation of a great man, discriminating analysis of character, fertility of illustration, weight of sentiment, and style at once chaste, nervous and brilliant. The long sentences which have been criticised in this, as in his other performances, are like those which Dr. Channing admired and commended in Milton's prose,—well compacted, full of meaning, fit vehicles of great thoughts.

"But he does not deal exclusively in those ponderous sentences. There is nothing of the artificial, Johnsonian balance in his style. It is as often marked by a pregnant brevity as by a sonorous amplitude. He is sometimes satisfied, in concise epigrammatic clauses, to skirmish with his light troops and drive in the enemy's outposts. It is only on fitting occasions, when great principles are to be vindicated and solemn truths told, when some moral or political Waterloo or Solferino is to be fought,—that he puts on the entire panoply of his gorgeous rhetoric. It is then that his majestic sentences swell to the dimensions of his thought,—that you hear afar off the awful roar of his rifled ordnance, and—when he has stormed the heights and broken the center and trampled the squares and turned the staggering wing of his adversary,—that he sounds his imperial clarion along the whole line of battle, and moves forward with all his hosts in one overwhelming charge.

"His pleasantry was exuberant and unfailing, in defeat as well as in victory. It was a safeguard against depression and discouragement. Receiving, one morning, a note from a gentleman engaged with him in a cause at Washington, informing him that the Court had decided against them, he at once wrote back:

"Dear Sir:—The Court has lost its little wits. Please let me have—I. Our brief (for the law). 2. The defendant's brief (for the sophistry). 3. The opinion (for the foolishness), and never say die."

"The qualifications of a certain office holder being discussed in his presence, Mr. Choate said, 'Yes, Sir, you may sum them up by asserting that he is self-sufficient, all-sufficient, and insufficient.'

"In replying to a lawyer who had been addressing the Court

in a loud and almost boisterous manner, Mr. Choate referred playfully to his 'stentorian powers.' To his surprise, however, the counsel took it in dudgeon, and as soon as possible rose to protest against the hostile assault. 'He had not been aware of anything in his mode of address which would justify such an epithet; he thought it unusual and undeserved,' etc., etc. Going on thus, his voice unconsciously soon rose again to its highest key, and rung through the court-house as if he were haranguing an army; when Mr. Choate half rose, and stretching out his hand with a deprecatory gesture, said, in the blandest tones, "One word, may it please the Court; only one word, if my brother will allow. I *see my mistake*. I beg leave to retract what I said!" The effect was irresistible. The counsel was silent; the Court and spectators convulsed with laughter.

"Of a lawyer at once pugnacious, obstinate, and dull-witted, he remarked that he seemed to be a bulldog with confused ideas. The description was comprehensive and perfect.

"During the trial of Crafts, Mr. Choate was pressing the Court to make what he thought to be a very equitable and necessary order in relation to taking a certain deposition. The Court finding no precedent for it, suggested that the matter be suspended till the next day. 'and then,' added the judge, 'I will make the order, if you shall be able to furnish me with any precedent for such proceeding.' 'I will look, your Honor,' replied Mr. Choate, in his most deferential manner, 'and endeavor to find a precedent, if you require it; though it would seem to be a pity that the Court should lose the honor of being the first to establish so just a rule.'"

It is not possible to present in the limited space of a monthly law review an adequate portrait of this great man. A sketch—an outline—a suggestion must suffice, with the belief that the appetite of the reader will be whetted for a more minute study of his words, his personality and his achievements. One can open at random a volume of his published utterances and be at once absorbed in its brilliant pages, for he indeed touched nothing which he did not adorn. He seems to have had no off-days or moments, calling for the familiar excuses by his friends that he "wasn't at his best—he didn't do himself justice." Any public speaker who can emerge from the test of a stenographic report of extemporaneous remarks in as perfect "form" as did Mr. Choate from his jury cases must of necessity be endowed with great gifts.

The following paragraphs from his address before the Law School at Cambridge, delivered in July, 1845, upon the Conservative Force of the American Bar are given as specimens of his style, and show again the famous long sentences and the wonderful clearness that pervaded them—the wide reading and the real, not “canned” learning, which were their *fons et origo*—the lofty tone and the forceful logic of this great persuader of courts and juries:

“There are nations, I make no question, whose history, condition, and dangers, call them to a different work. There are those to whom everything in their history, condition, and dangers admonishes to reform fundamentally, if they would be saved. With them the whole political and social order is to be rearranged. The stern claim of labor is to be provided for. Its long antagonism with capital is to be reconciled. Property is all to be parcelled out in some nearer conformity to a parental law of nature. Conventional discriminations of precedence and right are to be swept away. Old forms from which the life is gone are to drop as leaves in autumn. Frowning towers nodding to their fall are to be taken down. Small freeholds must dot over and cut up imperial parks. A large infusion of liberty must be poured along these emptied veins and throb in that great heart. With those, the past must be resigned; the present must be convulsed, that ‘an immeasurable future,’ as Carlyle has said, ‘may be filled with fruitfulness and a verdant shade.’

“But with us (of the Bar) the age of this mode and this degree of reform is over; its work is done. The passage of the sea, the occupation and culture of a new world, the conquest of independence,—these were our eras, these our agency, of reform in our jurisprudence, of liberty, which guards our person from violence and our goods from plunder, and which forbids the whole powers of the State itself to take the ewe lamb, or to trample on a blade of grass of the humblest citizen without adequate remuneration; which makes every dwelling large enough to shelter a human life its owner’s castle which winds and rain may enter but which the government cannot,—in our written constitutions, whereby the people, exercising an act of sublime self-restraint, have intended to put it out of their own power forever, to be passionate, tumultuous, unwise, unjust; whereby they have intended, by means of a system of representation; by means of the distribution of the government into departments, independent, co-ordinate for checks and balances; by a double chamber of legislation; by the establishment of a fundamental and paramount organic law; by the organization of a judiciary

whose function, whose loftiest function it is to test the legislation of the day by this standard for all time,—constitutions, whereby by all these means they have intended to secure a government of laws, not of men; of reason, not of will; of justice, not of fraud,—in that grand dogma of equality,—equality of right, of burthens, of duty, of privileges, and of chances, which is the very mystery of our social being—to the Jews, a stumbling block; to the Greeks, foolishness—our strength, our glory,—in that liberty which we value not solely because it is a natural right of man; not solely because it is a principle of individual energy and a guaranty of national renown; not at all because it attracts a procession and lights a bonfire, but because when blended with order, attended by law, tempered by virtue, graced by culture, it is a great practical good; because in her right hand are riches, and honor, and peace; because she has come down from her golden and purple cloud to walk in brightness by the weary ploughman's side and whisper in his ear as he casts the seed with tears, that the harvest which frost and mildew and cankerworm shall spare, the government shall spare also; in our distribution into separate and kindred States, not wholly independent, not quite identical, in 'the wide arch of the ranged empire' above,—these are they in which the fruits of our age and our agency of reform are embodied; and these are they by which, if we are wise,—if we understand the things that belong to our peace,—they may be perpetuated. It is for this that I say the fields of reform, the aims of reform, the uses of reform here, therefore, are wholly unlike the fields, uses, and aims of reform elsewhere. Foreign examples, foreign counsel,—well or ill meant,—the advice of the first foreign understandings, the example of the wisest foreign nations, are worse than useless for us. Even the teachings of history are to be cautiously consulted, or the guide of human life will lead us astray. We need reform enough, Heaven knows; but it is the reformation of our individual selves, the bettering of our personal natures; it is a more intellectual industry; it is a more diffused, profound, and graceful, popular, and higher culture; it is a wider development of the love and discernment of the beautiful in form, in color, in speech, and in the soul of man,—this is what we need,—personal, moral, mental reform—not civil—not political! No, no! Government, substantially as it is; jurisprudence, substantially as it is; the general arrangements of liberty, substantially as they are; the Constitution and the Union, exactly as they are,—this is to be wise, according to the wisdom of America."

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"In supposing that conservation is the grand and prominent

public function of the American Bar in the State, I have not felt that I assigned to a profession, to which I count it so high a privilege to belong, a part and a duty at all beneath its loftiest claims. I shall not deny that to found a State which grows to be a nation, on the ruins of an older, or on a waste of earth where was none before, is, intrinsically and in the judgment of the world, of the largest order of human achievements. Of the chief of men are the *conditores imperiorum*. But to keep the city is only not less difficult and glorious than to build it. Both rise, in the estimate of the most eloquent and most wise of Romans, to the rank of divine achievement. I appreciate the uses and the glory of a great and timely reform. Thrice happy and honored he who leaves the Constitution better than he found it. But to find it good and keep it so, this too, is virtue and praise.

"It was the boast of Augustus,—as Lord Brougham remembers in the close of his speech on the improvement of the law,—that he found Rome of brick and left it of marble. Ay. But he found Rome free, and left her a slave. He found her a republic, and left her an empire! He found the large soul of Cicero unfolding the nature, speaking the high praise, and recording the maxims of regulated liberty, with that eloquence which so many millions of hearts have owned,—and he left poets and artists! We find our city of marble, and we will leave it marble. Yes, all, all, up to the grand, central, and eternal dome; we will leave it marble, as we find it. To that office, to that praise, let even the claims of your profession be subordinated. *Pro clientibus sæpe; pro lege, pro republica semper.*"

GEORGE BRYAN.

Richmond, Va.